

Application No. 10/664,365
Attorney Docket No. 13342US03

REMARKS

The present application includes claims 1-4 and 8-10, all of which were rejected. Claims 14-23 were previously canceled in light of a restriction requirement. Claims 5-7 and 11-13 were withdrawn from consideration by the Examiner and have been canceled herein. Additionally, by this Amendment, claims 2-3 and 9-10 have been canceled and claims 1, 4, and 8 have been amended.

Claims 1-4 and 8-10 were rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter that the applicant regards as the invention. Claims 1, 4, and 8 have been amended to address the concerns raised by the Examiner. Claims 2-3 and 9-10 have been canceled.

Claims 1-4 and 8-10 were rejected under 35 U.S.C. §102(e) as being anticipated by Bruschi, U.S. Pat. No. 6,666,518. Bruschi teaches a chair adapted to be stacked. As shown in Figure 1, the chair 1 includes front uprights 8 and rear uprights 3. The lower portion 8a of the front uprights 8 describes the front legs of the chair 1 and the lower portion 3a of the rear uprights describes the rear legs of the chair. In addition, the chair 1 includes two pairs of lateral crossbars 11 that extend between the rear uprights 3 and the front uprights 8. Also, as shown in Figure 1, the chair 1, includes a seat 10 having a plurality of notches 10a "adapted to enable passage of the rear uprights 3 of another chair of same structure in a stacked position" as recited at Col. 3, Lines 25-29.

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Further, in Bruschi, both the rear legs 3 have a lower portion 3a that includes a notch 13. The notches 13 conform in shape to the upper crossbars 11b, as described beginning at Col. 4, Line 10, and shown with greater clarity in Figures 3-4. Specifically, Figure 3 illustrates two of the chairs 1 stacked on top of one another. As shown in Figure 3, when the second chair is lowered onto the first chair, the notch 13 on the lower portion of the rear leg of the second chair comes to rest on the upper crossbar 11.

More specifically, in Bruschi, the notch 13 on the rear legs of the second chair conforms to the surface of the upper crossbar 11 on the first chair. That is, as shown in Figure 3, the upper crossbar 11 of the first chair is NOT modified to conform to the rear leg 3 of the second chair, instead the rear leg 3 is modified to include the notch 13 to conform to the upper crossbar. Also, as illustrated in Figure 3, the upper crossbar 11 does not include a bend, but instead extends in a straight line between the rear leg and the front leg.

Independent claims 1 and 8 include the limitation of a footrest extending between one of the rear legs and one of the front legs, wherein the footrest includes a bend that is adapted to receive one of the rear legs of a second bar stool when the second bar stool is stacked on the first bar stool. It is respectfully submitted that the limitation of a bend in the footrest that is adapted to receive a rear leg of a second bar stool is not taught by Bruschi because Bruschi teaches modifying the rear legs of the top bar stool, not the upper crossbar of the bottom bar stool. Also, more specifically, Bruschi does not teach modifying the upper crossbar to include a bend.

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Consequently, independent claims 1 and 8, and dependent claim 4, are
respectfully submitted to be allowable.

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CONCLUSION

If the Examiner has any questions or the Applicant can be of any assistance, the Examiner is invited and encouraged to contact the Applicant at the number below.

The Commissioner is authorized to charge any necessary fees or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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